

Introduced by Senator Knight

February 20, 2004

An act *to amend Section 4320 of, and to add Section 4320.5 to, the Family Code, relating to spousal support.*

LEGISLATIVE COUNSEL'S DIGEST

SB 1616, as amended, Knight. Spousal support.

Existing law authorizes a court to issue an order for spousal support under specified circumstances. *In ordering spousal support, the court is required to consider the goal that the supported party shall be self-supporting within a reasonable period of time, among other things.*

This bill would provide that a party who has a specified income shall be deemed to be self-supporting for purposes of the above provision.

~~This~~

The bill would also require the court to state, in writing and on the record, its reasons for making an order for spousal support ~~in writing and on the record~~ and how the order conforms to specified provisions of existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. *Section 4320 of the Family Code is amended to*
- 2 *read:*
- 3 4320. In ordering spousal support under this part, the court
- 4 shall consider all of the following circumstances:

1 (a) The extent to which the earning capacity of each party is
2 sufficient to maintain the standard of living established during the
3 marriage, taking into account all of the following:

4 (1) The marketable skills of the supported party; the job market
5 for those skills; the time and expenses required for the supported
6 party to acquire the appropriate education or training to develop
7 those skills; and the possible need for retraining or education to
8 acquire other, more marketable skills or employment.

9 (2) The extent to which the supported party's present or future
10 earning capacity is impaired by periods of unemployment that
11 were incurred during the marriage to permit the supported party to
12 devote time to domestic duties.

13 (b) The extent to which the supported party contributed to the
14 attainment of an education, training, a career position, or a license
15 by the supporting party.

16 (c) The ability of the supporting party to pay spousal support,
17 taking into account the supporting party's earning capacity, earned
18 and unearned income, assets, and standard of living.

19 (d) The needs of each party based on the standard of living
20 established during the marriage.

21 (e) The obligations and assets, including the separate property,
22 of each party.

23 (f) The duration of the marriage.

24 (g) The ability of the supported party to engage in gainful
25 employment without unduly interfering with the interests of
26 dependent children in the custody of the party.

27 (h) The age and health of the parties.

28 (i) Documented evidence of any history of domestic violence,
29 as defined in Section 6211, between the parties, including, but not
30 limited to, consideration of emotional distress resulting from
31 domestic violence perpetrated against the supported party by the
32 supporting party, and consideration of any history of violence
33 against the supporting party by the supported party.

34 (j) The immediate and specific tax consequences to each party.

35 (k) The balance of the hardships to each party.

36 (l) The goal that the supported party shall be self-supporting
37 within a reasonable period of time. *For purposes of this*
38 *paragraph, a party who currently has an annual income that*
39 *equals or exceeds 50 percent of the highest total annual income of*
40 *the parties during the marriage shall be deemed to be*

1 *self-supporting*. Except in the case of a marriage of long duration
2 as described in Section 4336, a “reasonable period of time” for
3 purposes of this section generally shall be one-half the length of
4 the marriage. However, nothing in this section is intended to limit
5 the court’s discretion to order support for a greater or lesser length
6 of time, based on any of the other factors listed in this section,
7 Section 4336, and the circumstances of the parties.

8 (m) The criminal conviction of an abusive spouse shall be
9 considered in making a reduction or elimination of a spousal
10 support award in accordance with Section 4325.

11 (n) Any other factors the court determines are just and
12 equitable.

13 *SEC. 2.* Section 4320.5 is added to the Family Code, to read:
14 4320.5. If the court orders spousal support pursuant to this
15 part, the court shall state ~~its reasons for making that order~~, in
16 writing and on the record, *its reasons for making that order and*
17 *how the order conforms to subdivision (l) of Section 4320 and*
18 *Section 4322.*

